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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/020,794	10/30/2001	Neil Joseph Lant	CM2438MX	9500

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EXAMINER

OGDEN JR, NECHOLUS

ART UNIT	PAPER NUMBER
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1751

MAIL DATE	DELIVERY MODE
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09/10/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/020,794	Applicant(s) LANT ET AL.	
	Examiner Necholus Ogden	Art Unit 1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8-02-2007 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 12 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The aforementioned claim does not appear to be supported by the specification. Specifically, the range of the second phase between 4.9% and 8.4% by weight. Appropriate clarification and/or corrections are required.

Art Unit: 1751

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

1. Claims 1-12 are rejected under 35 U.S.C. 103(a) as obvious over Raehse et al (5,382,377).

Art Unit: 1751

Raehse et al disclose a process for the production of a detergent in the form of portioned pressings to form a compacted granule and then into tablets (see abstract). Raehse et al teach that said granules comprise surfactants, polymers and plasticizers (col. 3, lines 10-68); detergents such as nonionic, anionic' surfactants including sulfonates and sulfates; and builders, fabric softeners and fragrances (col. 10, lines 23-68) wherein said particles have a size of from about 0.3 mm to 2 cm (col. 5, lines 58-54). Raehse et al further disclose particles are compressed in the portioning step in the range from 1 to 300 bar or 10 to 300 N/cm² (col. 8; lines 5-24) and Examples 1-3 specifically teach tablets with 15% alkyl benzene sulfonates that are pressed under pressure from about 10 to 100 bar to form the tablet that has a density of 1.16 g/cm³ (see example 1, column 13, line 25-col. 14, line 35) for the purpose of producing a laundry tablet.

The compositions of Raehse et al are silent with respect to comprising at least two phases, however, it would have been obvious to the compositions or processes of Raehse et al to compress the phases to form a homogenous resultant tablet as disclosed by Raehse et al (see abstract) since compression of phases will ultimately yield a homogenous mixture in the absence of a showing to the contrary.

2. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boskamp et al (6,486,118).

3. Boskamp et al disclose a detergent composition having particles with organic surfactants and detergency builders and a benefit plant material whereas to form a particulate detergent composition and compacting said particulates in a mold to form a

Art Unit: 1751

tablet (see abstract). Boskamp et al further disclose that said particles have a range from 250 to 1,500 micrometers and said particles may form discrete regions that may be heterogeneous (col. 2, lines 34-67). With respect to the detergent, Boskamp et al teach that said tablet may comprise 5 to 80% by weight of a detergent tablet and said detergents may include anionic, nonionic and cationic surfactants (col. 3, line 20-col. 4, line 53). Boskamp et al further suggest that said tablet comprises water insoluble plant material and perfumes as additives in said particulate mixture (see Examples 1,6, 7-8) and further said tablets have a bulk density of 400 g/l (col. 11, lines 25-27).

4. Boskamp et al is silent with respect to density of the particulate material and the compression force, however, it would have been obvious to the skilled artisan that a benefit material and/or tablet as a whole comprises a density of less than 1 g/l since said table has a bulk density of 400 g/l wherein said low bulk density particulate detergents are compacted at low force and they tend to disperse in water at a slower rate because they have a density of less than 1000 g/l and thus they tend to float in water before fully dispersing in water.

Response to Arguments

5. Applicant's arguments filed 8-2-207 have been fully considered but they are not persuasive.

Applicant argues that Raehse et al do not suggest two phases.

The compositions of Raehse et al are silent with respect to comprising at least two phases, however, it would have been obvious to the compositions or processes of

Art Unit: 1751

Raehse et al to compress the phases to form a homogenous resultant tablet as disclosed by Raehse et al (see abstract) since compression of phases will ultimately yield a homogenous mixture in the absence of a showing to the contrary. Accordingly, the composition as a whole would have been obvious to the skilled artisan since the ingredients suggested are known to form a tablet that is agglomerated and compressed.

Applicant argues that Raehse et al do not suggest that a benefit agent would float since it suggests a density of 1.16 g/cm³.

The examiner contends that the claims require that the benefit agent alone have a density of less than 1 g/cm³ at 20 degrees Celsius. Therefore, since Raehse et al teach the same benefit agent for the purpose of compacting particulates to form a tablet then it would have been obvious that said ingredient would have similar characteristics in the absence of a showing to the contrary. Moreover, the overall density of 1.16 g/cm³ is close enough but do not overlap present a case of obviousness in the absence of a showing to the contrary.

Similarly, a prima facie case of obviousness exists where the claimed ranges and prior art ranges do not overlap but are close enough that one skilled in the art would have expected them to have the same properties. *Titanium Metals Corp. of America v. Banner*, 778 F.2d 775, 227 USPQ 773 (Fed. Cir. 1985).


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Necholas Ogden whose telephone number is 571-272-1322. The examiner can normally be reached on M-Thu.

Art Unit: 1751

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on 571-272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Necholus Ogden
Primary Examiner
Art Unit 1751

No
9-1-2007